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## State Board of Equalization

### Retail Sales of Cigarettes and Tobacco Products in California

## What All Retailers Should Know

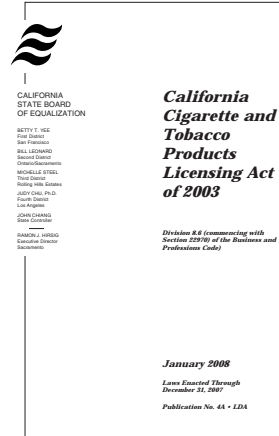


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Welcome to the Board of Equalization's presentation on Retail Sales of Cigarettes and Tobacco Products. This presentation is designed to help retailers understand the requirements for selling cigarettes and tobacco products in California. Although focused on the retail sales aspect, some of this information also applies to wholesalers and distributors.

# California Cigarette and Tobacco Products Licensing Act

- Effective January 1, 2004.
- Main Act requirements for sellers:
  - License
  - Invoice retention
- Increased the Board of Equalization's (BOE) administrative responsibilities.



Effective January 1, 2004, the Cigarette and Tobacco Products Licensing Act was established. This was in response to the decline of tax revenues by hundreds of millions of dollars per year. This decline was due, in part, to unlawful distributions and untaxed sales of cigarettes and tobacco products. The Act established certain license and invoice requirements while also increasing the Board of Equalization's role in administering the cigarette and tobacco tax laws.

# Licensing

- You must have a Cigarette and Tobacco Products Retailer's License for each location.
- \$100 per location.
- State license is separate from local tobacco license.
- You can get an application when you apply for your seller's permit, call Special Taxes & Fees Division at 800-400-7115 or from the BOE website.

MUST BE DISPLAYED CONSPICUOUSLY AT LOCATION ADDRESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION  
CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003  
RETAILER'S LICENSE

LICENSE NUMBER: \_\_\_\_\_

BUSINESS MAILING ADDRESS: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

LOCATION ADDRESS: \_\_\_\_\_

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER SECTION 400 OF THE CALIFORNIA BUSINESS AND PROFITABILITY CODE.

NOT VALID AT ANY OTHER LOCATION ADDRESS.

IS HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS.

THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL SUSPENDED, REVOKED, OR CANCELED, AND IS NOT TRANSFERABLE.

FOR GENERAL INFORMATION, CONTACT THE SPECIAL TAXES & FEES DIVISION AT 800-400-7115.

FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYER RIGHTS ADVOCATE OFFICE AT 800-29-2766 OR 916-557-2766.

SEE ALSO SECTION 206.05.

## A MESSAGE TO OUR LICENSE HOLDER

As a retailer, you have certain rights and responsibilities under the Cigarette and Tobacco Products Licensing Act of 2003. In order to assist you in your endeavor and to better understand the law, we offer the following information:

- The Cigarette and Tobacco Products Licensing Act of 2003 (found under Section 88) commencing with section 206.05 of the California Business and Professions Code.
- Our website at [www.boe.ca.gov](http://www.boe.ca.gov)
- Our Licensing Information Center at 800-400-7115.

As a retailer, you are responsible to maintain the records and receipts of a product transaction. You are required to maintain (BOE 8888) and records for no less than four years, and make them available for inspection by a Board representative at all times. In addition, you must keep the records on file at the location identified on your license for at least one year after the date of purchase. Specific requirements are set forth in the Cigarette and Tobacco Products Licensing Act of 2003.

You must notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a permit, office, or member, or when you are moving any part of your business location. This license is valid only by the type of ownership and location specified on the license. A person who obtains a license as a retailer who ceases to do business, or who moves, commences business, or whose license has been suspended or revoked, must also notify the Board immediately by writing to the State Board of Equalization, Cigarette Taxes Division, P.O. Box 942870, Sacramento, CA 95829-0870 in order to make arrangements to surrender the license, or by giving the license to a Board representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayer Rights Advocate office by toll-free calling 800-29-2766 or 916-557-2766. Your fax number is 916-557-3115.

License must be displayed at location address for which issued and must be visible to your customers.

STATE BOARD OF EQUALIZATION  
Cigarette Taxes Division

The law requires all sellers of cigarette and tobacco products to register with the Board of Equalization and obtain a Cigarette and Tobacco Products license for each location from which sales are made. The cost of the retail license is a one-time fee of \$100 per location. The license issued by the BOE is separate from any city or county license. It is best to check with your local jurisdiction to find out if a local license is required.

## Licensing

- Valid for 12 months
- Must be renewed annually.
- If not renewed timely, a \$100 reinstatement fee is required.
- A Cigarette and Tobacco Products License will not be issued if the location is not registered with an active seller's permit.



The Cigarette and Tobacco Products License is issued by the Board's Special Taxes and Fees Division. A separate license is required for each retail location where cigarettes and tobacco products are sold, and is valid for a 12-month period. You will be required to renew your license prior to its expiration date. There is no additional cost to renew your license; but if you do not timely renew your license and it expires, a reinstatement fee will be due.

If you operate multiple retail locations, each location must already have an active seller's permit or have been added to your existing seller's permit before a cigarette and tobacco license can be issued. A cigarette and tobacco license from one location cannot be used or transferred to your other location.

## Licensing



- You must have and display your license before you can start selling cigarettes or tobacco products.
  - It can take 2 to 4 weeks to receive your license.
  - A license is not assignable or transferable.
- 

It is important to understand that simply submitting your application and fee does not mean you can begin making sales of cigarettes or tobacco. You must have received your license and display it at your place of business before you make any sale of cigarettes or tobacco products. Although applications are promptly processed by the Special Taxes and Fees Division, it may take 2 to 4 weeks before you receive your license. Any questions you have about the license, or to check the status of your application, please contact the Special Taxes and Fees Division by calling the toll-free number 800-400-7115.

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## Licensing

### Wholesaler or Distributor License

- A Retailer's license lets you make retail sales only to end consumers.
  - You need a Distributor or Wholesaler license to sell to wholesalers or other retailers.
  - Contact the Special Taxes & Fees Division for more information regarding these licenses.
- 

A retailer's cigarette and tobacco license allows you to make retail sales to legal-aged consumers. If you want to engage in sales of cigarette and tobacco products to other retailers or wholesalers, then you are required to obtain a separate wholesaler or distributor license. Sales to other retailers, wholesalers, or distributors are illegal if you are not properly licensed. For more information on obtaining a distributor or wholesaler license, please contact the Special Taxes and Fees Division of the Board of Equalization.

## Inspections



- BOE routinely conducts inspections of all businesses selling cigarettes and/or tobacco products.
- Inspections are unscheduled but are conducted during normal business hours.
- Inspections are conducted by the Investigations Division staff of the BOE.

As a retailer of cigarette and tobacco products, you can expect the Board of Equalization to stop in for a routine inspection of your store. The law allows inspections to take place anywhere cigarettes or tobacco products are sold, produced, or stored. The inspections are not scheduled but will be conducted during normal business operating hours. These inspections are completed by the BOE's Investigations Division. The inspection will be performed in a reasonable manner and time, taking into consideration your business's operating hours, service to customers, or other retail functions.

## Inspections

### Inspectors will:

- Identify themselves.
- Explain the inspection process.
- Ask the person in charge for identification.



Upon arrival at your location, the inspectors will introduce themselves, show their Board of Equalization identification, provide their business cards, and explain the purpose of the inspection. The inspectors will ask the on-site person in control of your business, if they are the owner, manager, or employee and will also request identification.

## Inspections

Inspectors will also:

- Request permission to conduct their inspection.
- Request access to any secured cigarette/tobacco storage areas.
- Check if your cigarette/tobacco license (LRQ) and seller's permit are posted.
- Confirm your business information.



Inspectors will ask where the cigarette and tobacco products are stored and request permission to inspect these areas. Inspectors will also ask for access to any secured storage areas. They will check to see if the cigarette and tobacco license and the seller's permit are posted. During the course of the inspection, the inspectors will also verify and update your registration information.

# Inspections

- STAKE Act sign is posted.
- No sale of single sticks of cigarettes.
- Verify all cigarettes are listed on CA Tobacco Directory.
- Validate tax stamps.



A STAKE Act sign, which warns about sales to minors, is required to be posted by retailers selling cigarette and tobacco products. If one is not visible or the one you have is worn, the inspector will provide you with a new sign.

Be aware that it is illegal to sell single sticks of cigarettes.

During the course of the inspection, cigarettes will be visually inspected to make certain all cigarette packs are stamped with a California tax stamp. Cigarettes will also be scanned to verify that the tax stamps are valid.

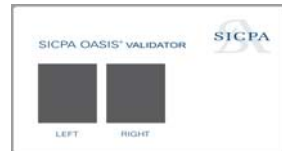
## New Cigarette Tax Stamp

- New Design:
  - Primarily yellow-gold
  - Color shift
  - Unique 6-digit serial number

NEW



- Stamp Validator:
  - Checks for valid stamps
  - To purchase, call 916-760-8580



- Prior stamp is still valid

PRIOR



The BOE started distribution of the new California cigarette tax stamp in December 2010. Some of the new features of the stamp include a predominantly yellow-gold color, a color shifting effect from green to blue when tilted, and a unique 6-digit serial number. A “Stamp Validator” can be purchased to help you ensure the new tax stamps on your cigarette packs are authentic.

The prior California tax stamp already in circulation is still considered valid.

## California Tobacco Directory

Only cigarettes and roll-your-own tobacco listed on the California Tobacco Directory can be:

- sold
- offered for sale, or
- possessed for sale in California

For the current list, check the Attorney General's website at: <http://ag.ca.gov/tobacco/directory.htm>



Only cigarette brands and roll-your-own tobacco products listed on the Attorney General's California Tobacco Directory may be sold, offered for sale, or possessed for sale in California. The directory lists both the brand name and manufacturer's name. Inspectors will verify that cigarette and tobacco products at your retail location are on the directory, making them legal to sell. Please note that as of September 22, 2009, all flavored cigarettes and roll-your-own tobacco were banned from sale in the United States and are subject to seizure. At this time, only menthol flavored cigarettes are exempt from this ban. You can obtain a copy of the directory by visiting the Attorney General's website.

## AB 2496 – eff. Jan 1, 2011

Retailers can sell off tax-stamped cigarettes for **60** days from the effective date of the product's removal from the CA Tobacco Directory.

After the 60 days, the “delisted” products are subject to seizure and destruction.



A brand family removed from the California Tobacco Directory can no longer be sold in this state. Assembly Bill 2496, which went into effect on January 2, 2011, gives retailers financial hardship relief resulting from the loss of cigarette and tobacco product inventory when it is removed from the Tobacco Directory. When a product is removed from the Tobacco Directory, licensed retailers are now allowed to possess, transport and sell tax-stamped cigarettes for 60 days from the effective date of the product's removal. After the 60 days, the “delisted” product is subject to seizure and destruction.

Although licensed distributors are not required to take back “delisted” product from the licensed retailer who originally purchased the product, retailers may want to check with their distributor to determine if this is an option.

## Inspections

We will also:

- Verify that all cigarettes comply with the California Cigarette Fire Safety and Firefighter Protection Act.
- Only cigarettes approved by the Office of the State Fire Marshall as self-extinguishing may be sold in California.



Inspectors will also verify all cigarettes comply with the California Cigarette Fire Safety and Firefighter Protection Act, also known as AB 178. Cigarettes purchased and sold after January 1, 2007, are required to be certified by the manufacturer and approved by the State Fire Marshal as self-extinguishing. Cigarettes listed on the California Tobacco Directory have been certified and approved by the State Fire Marshal.

## Inspections



You can also expect us to:

- Ask for your last 12 months of purchase invoices for cigarette and tobacco products.
- Verify that excise tax is paid on all tobacco products.

**Note:** All tobacco products are considered untaxed unless proof of excise taxes paid is provided.

During the inspection, you will be asked to provide the last 12 months of your cigarette and tobacco purchase invoices. In part, the invoices are used to make sure the excise tax has been paid on all tobacco products. By statute, all tobacco products are considered untaxed unless proof is provided that the excise tax has been paid. A valid purchase invoice will confirm the payment of excise taxes.

## Inspections



The inspectors will also:

- Verify that your invoices are valid and are from a licensed distributor or wholesaler.
- You can determine if a distributor's or wholesaler's license is valid on the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov).

Your purchase invoices will also be used to reconcile your cigarette and tobacco inventory on hand. While reviewing your invoices, inspectors will check to see if they are valid and purchased from a licensed wholesaler or distributor. Cigarette and tobacco product license numbers can be validated by checking the BOE's website.

## Invoices

A valid purchase invoice must be legible and contain:

- Wholesaler's or Distributor's
  - name,
  - address,
  - telephone number, and
  - license number.
- Retailer's name, address, and license number.
- The amount of CA excise taxes paid.
- An itemized list of products purchased.
- Date of purchase.

Purchases invoices for cigarette and tobacco products must be legible, include the date of the purchase, an itemized list of products purchased and the name, address, telephone number, and license number of the wholesaler or distributor. It must also contain your name, address, and license number. The amount of excise taxes paid or a statement that excise taxes have been paid must also be included on the invoice. Purchase invoices that do not include all the required information may be considered invalid.

## Sample of a Valid Purchase Invoice

**MELISSA'S WHOLESALE**

123 Wholesale Avenue  
Anytown, CA 95000  
(222) 555-1234  
LD Q ET 90-000000

*Invoice*

Number 1066

Date: June 1, 2008

**Bill To:**

Joanna Shopkeeper  
Linda's Smoke Shop  
456 Smokey Drive  
Anycity, CA 96000  
LR Q ET 91-999999

**Ship To:**

Joanna Shopkeeper  
Linda's Smoke Shop  
456 Smokey Drive  
Anycity, CA 96000  
LR Q ET 91-999999

Description	Quantity	Price Each	Amount
COPENHAGEN	81.00	41.99	3,401.19
COPENHAGEN LONGCUT	63.00	20.99	1,322.37
COPENHAGEN POUCH	10.00	20.99	209.90
SKOAL STRAIGHT	9.00	41.99	377.91
SKOAL WINTERGREEN	9.00	41.99	377.91
SKOAL MINT	9.00	41.99	377.91
SKOAL FINECUT	9.00	41.99	377.91
Subtotal			6,445.10
Excise Tax			2,908.68
<b>TOTAL</b>			<b>\$ 9,353.78</b>

0 - 30 days	31 - 60 days	61 - 90 days	> 90 days	Total
\$9,353.78				\$9,353.78

This is an example of a valid purchase invoice. It contains all the necessary information previously mentioned and clearly shows that excise taxes have been paid on the purchase.

## Invalid Invoice

### Invalid Invoice:

- Missing wholesaler's or distributor's information that sold the tobacco products.
- Missing the retailer's address and license number.
- Does not show excise tax paid was paid.

04354

*David Lane*

CUSTOMER'S ORDER NO. [REDACTED] DATE *10/02/07*

NAME [REDACTED] 12:05 PM

ADDRESS [REDACTED]

CITY, STATE, ZIP *SPRING RAIN*

SOLD BY [REDACTED] CASH C.O.D. CHARGE ON ACCT. MOSE RETO PAID OUT

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	<i>OPEN HOGEN SNUFF</i>	<i>4625</i>	<i>46.25</i>
2	<i>OPEN HOGEN L.C</i>	<i>23.27</i>	<i>46.54</i>
2	<i>OPEN/SPK</i>	<i>31.00</i>	<i>62.00</i>
<i>CHARGE</i>			
<i>10/02</i>			
<i>TOTAL DUE</i>			<i>154.79</i>
<i>TOTAL DUE</i>			<i>154.79</i>

RECEIVED BY *RLN*

KEEP THIS SLIP FOR REFERENCE

5805

This is an example of an invalid invoice. It is missing much of the required invoice information. Invalid invoices will not be accepted as proof of excise taxes paid and may result in the seizure of your product. As a prudent business person, you should ensure your supplier provides you with a valid invoice.

## Retailers with multiple locations...

Each licensed retail location should have its own inventory of tobacco products. But, if a retailer with multiple licensed locations has a need to transfer product between locations, the guidelines below should be followed:

- Prepare a transfer log or invoice at the time of transfer. The transfer log or invoice should include:
  - Your retail location & license information making the original purchase
  - Your retail location and license information where the product was transferred
  - Your supplier's name, license number, and date of original purchase
  - Detailed description and quantity of product transferred (i.e., type of package, flavor, style, etc.)

Each retail location should have its own inventory of cigarette and tobacco products with the purchase invoices maintained at that location. However, if a retailer with multiple retail locations finds it necessary to transfer some tobacco products from one of its licensed locations to another of its licensed locations, the following guidelines should be followed to ensure the proper transfer documentation is maintained for the products being transferred.

A transfer log should be prepared at the time of transfer. The transfer log should include:

- The retail location information and license number of the store that originally purchased the tobacco products.
- The retail location information and license number of the store where the product is being transferred.
- A legible list with detailed description and quantity of each product transferred. The detailed description should include such information as the type of packaging, flavor of the product, style, and any other information to fully identify the product.
- The supplier's name, license number and date of the original tobacco products purchase.

## Retailers with multiple locations...cont.

- ❑ Your original purchase invoice kept at the location that originally purchased the product
- ❑ Copy of the original purchase invoice kept at the location where product was transferred.

Transfer of tobacco product is allowed **only** when the legal ownership (as registered with the BOE) of the store transferring the product is the same as the legal ownership of the store receiving the product.

### For example:

Store Transferring Product	Store Receiving Product	Is It Allowed?
John Smith – sole proprietor	John Smith – sole proprietor	<b>Yes</b>
John Smith – sole proprietor	John Smith – corporate officer	<b>No</b>
John Smith – sole proprietor	John Smith – partner	<b>No</b>

A copy of the transfer log and copy of the supplier's original purchase invoice should be kept at both retail locations involved in the transfer.

Transfer documentation, including invoice(s) must be maintained for four years, and kept at each retail location involved in the transfer for at least 12 months from the date of transfer.

Transfer documentation must be made available to the Board or its representative upon request. Failure to provide such documentation can result in the seizure of the transferred tobacco products involved.

Please note that the transfer of tobacco product is allowed **only** when the “**legal**” owner of the retail location transferring the product is the same “**legal**” owner of the retail location receiving the product. If the “legal” owner of the two locations is not the same type of entity (as registered with the Board), the transfer would be considered illegal and the product would be subject to seizure.

## Sample Log

Store Transferring Product	Store Receiving Product	Date of Transfer	Items Transferred	Original Purchase From
A Street Market 123 A Street Anywhere, CA LRQ 91-000000	B Street Market 123 B Street Anywhere, CA LRQ 91-111111	March 2, 2010	<ul style="list-style-type: none"> <li>50 packs Marlboro cigarettes, 100s</li> <li>5 boxes Romeo y Juliet Cigars (25 ea)</li> </ul>	LD Tobacco Distributors LDQ 90-222222 February 14, 2010
A Street Market 123 A Street Anywhere, CA LRQ 91-000000	B Street Market 123 B Street Anywhere, CA LRQ 91-111111	January 31, 2011	<ul style="list-style-type: none"> <li>7 rolls Grizzly Long Cut, Mint (5 ea)</li> <li>2 packs Black &amp; Mild cigars, wine flavor (5 ea)</li> <li>3 packs Black &amp; Mild cigars, wine flavor, wood tip (5 ea)</li> </ul>	S&W Wholesale LWQ 90-333333 December 27, 2010

**Note:** The product transfer information in this presentation should be considered a guideline. However, the BOE is in the process of developing a regulation that will provide specific requirements retailers must follow with respect to product transfers. The public will have an opportunity to provide input once the proposed law is scheduled for a Public Meeting.

This is an example of a log transferring tobacco product from one licensed retail store to another licensed retail store. The store's information and cigarette and tobacco license number are provided for both the store transferring the product and the store receiving the product. The date of the transfer and a detailed description of the products transferred are included in the log, as well as the original supplier's information and date of purchase.

The lack of complete product transfer information and the proper invoice documentation could result in the seizure of tobacco products transferred and/or citation.

## Seizures

Seizures of cigarettes or tobacco can occur for many reasons, including:

- Counterfeit, counterfeit-stamped, unstamped, or out-of-state stamped cigarettes.
- Cigarettes “Not for Sale in U.S.”
- Cigarettes not listed in the Attorney General’s CA Tobacco Directory.
- Untaxed Tobacco:
  - Products purchased from an unlicensed out-of-state supplier.
  - Products not supported by valid purchase invoices.



The Cigarette and Tobacco Products Licensing Act provides broad authorities to the Board of Equalization, including the seizure of untaxed cigarette and tobacco products.

## Seizures

Products will also be seized if:

- Cigarettes or tobacco products are sold or gifted while a cigarette and tobacco license is suspended or revoked.
- There is continued unlicensed sales of cigarettes or tobacco.

**Note:** Products seized for continued sales or gifting during a period of suspension or revocation are deemed forfeited to the State.



The Act also authorizes the Board to seize cigarette and tobacco products from retailers who make unlicensed sales, gift or continue to sell cigarettes and tobacco products while their license is suspended or revoked.

## Seizures

What happens if products are subject to seizure?

- The BOE inspector will take a physical inventory of what is to be seized and list the products seized on the *Receipt for Property Seized* form. The form includes:
    - Date and time of seizure
    - Name and signature of BOE inspector seizing the product
    - Name of the owner of items seized (i.e., sole proprietor, LLC, corporation, etc.) and business address where seizure occurred
- 



If a seizure of product is necessary, the BOE will physically take control of the product and provide you with a Receipt for Property Seized. The receipt will include the date and time of seizure, a list of the items seized, the name and signature of the BOE inspector, and the owner's name.

# Seizures

The Receipt also includes:

- Name of the person in control of the property (may be owner or employee), their address and signature.
- **Note:** Signing the Receipt does not waive any petition rights; it only confirms that what is listed on the seizure form is accurate.
- Details of items seized; this will include a description of the product, quantities of each, and the reason for its seizure.
- A copy of the Receipt will be provided at the time of the seizure.

BOE-1017 REV 3 (3-15)  
RECEIPT FOR PROPERTY SEIZED

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

CERTIFICATION

I, a representative of the State Board of Equalization (SBE), hereby certify that the items described in this document have been seized by me and receive a receipt of seizure and forfeiture (BOE-1028-A) in the mail regarding this receipt from the SBE that will provide information about the seizure and your appeal rights.

DATE OF SEIZURE: \_\_\_\_\_ ACCOUNT NUMBER: \_\_\_\_\_ AMENDED RECEIPT: ☐ YES ☐ NO

BOE REPRESENTATIVE NAME AND TITLE: \_\_\_\_\_ BOE REPRESENTATIVE SIGNATURE: \_\_\_\_\_

NAME OF PRIOR OWNER (owner and address): \_\_\_\_\_

PERSON IN CONTROL OF PROPERTY (name and address): \_\_\_\_\_

SEIZURE OF PERSON IN CONTROL OF PROPERTY: ☐ YES ☐ NO (SEE COMMENTS)

ADDRESS NAME AND ADDRESS OF PLACE OF SEIZURE: \_\_\_\_\_

ITEM SEIZURE	QUANTITY	DESCRIPTION	REASON
			REASON FOR SEIZURE (SEE COMMENTS)
			(1) UNLAWFUL PRODUCTS (1) UNLAWFUL
			(2) UNLAWFUL PRODUCTS (2) UNLAWFUL
			(3) UNLAWFUL PRODUCTS (3) UNLAWFUL
			(4) UNLAWFUL PRODUCTS (4) UNLAWFUL
			(5) UNLAWFUL PRODUCTS (5) UNLAWFUL
			(6) UNLAWFUL PRODUCTS (6) UNLAWFUL
			(7) UNLAWFUL PRODUCTS (7) UNLAWFUL
			(8) UNLAWFUL PRODUCTS (8) UNLAWFUL
			(9) UNLAWFUL PRODUCTS (9) UNLAWFUL
			(10) UNLAWFUL PRODUCTS (10) UNLAWFUL
			(11) UNLAWFUL PRODUCTS (11) UNLAWFUL
			(12) UNLAWFUL PRODUCTS (12) UNLAWFUL
			(13) UNLAWFUL PRODUCTS (13) UNLAWFUL
			(14) UNLAWFUL PRODUCTS (14) UNLAWFUL
			(15) UNLAWFUL PRODUCTS (15) UNLAWFUL
			(16) UNLAWFUL PRODUCTS (16) UNLAWFUL
			(17) UNLAWFUL PRODUCTS (17) UNLAWFUL
			(18) UNLAWFUL PRODUCTS (18) UNLAWFUL
			(19) UNLAWFUL PRODUCTS (19) UNLAWFUL
			(20) UNLAWFUL PRODUCTS (20) UNLAWFUL

ACKNOWLEDGMENT PAGE: \_\_\_\_\_ OF \_\_\_\_\_

I acknowledge receipt of the property listed on this document.

SEIZURE OF THE PROPERTY (SEE COMMENTS) \_\_\_\_\_

I approve destruction of the property listed on this document.

SEIZURE OF THE PROPERTY (SEE COMMENTS) \_\_\_\_\_

I acknowledge receipt and certify the destruction of the property listed on this document.

BOE REPRESENTATIVE NAME: \_\_\_\_\_ BOE REPRESENTATIVE SIGNATURE: \_\_\_\_\_

BOE REPRESENTATIVE NAME (NAME): \_\_\_\_\_ BOE REPRESENTATIVE SIGNATURE (NAME): \_\_\_\_\_

WRITER - BOE FILE COPY GARNITY - EVIDENCE CUSTODIAN PRINCE - SUPERVISOR SIGNATURE

Inspectors will review the receipt with you or your on-site representative at the time of inspection and provide an explanation of why the product is being seized. You or your representative will be given the opportunity to verify the receipt and then be asked to sign the receipt. A copy of the receipt will be left at the inspection site. Signing the receipt does not waive your petition rights or admit guilt; it simply confirms the items seized.

## Seizures

When inspectors seize cigarette or tobacco products, the BOE is required to notify business owners in writing:

- That their product was seized
- When it occurred
- What was seized
- Of their petition rights

This information is mailed to the business owner(s) with the *Notice of Seizure and Forfeiture*.



When a seizure is made, the Board of Equalization is required to notify the business owner in writing. A “Notice of Seizure and Forfeiture” letter will be mailed to notify the owner a seizure occurred, the date of the seizure, a description of the products seized, and an explanation of their right to petition for the release of the product.

## Seizures

### The Notice will be mailed to:

- The business mailing address for sole proprietors.
- The business mailing address and personal residence of each partner in a partnership.
- The business mailing address and agent of service as listed with the Secretary of State for a corporation or LLC.

A petition form for the release of property seized is included with the *Notice*.

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If your business is a sole proprietorship, the notice will be mailed to your business mailing address. If your business is a partnership, it will be mailed to your business mailing address and personal residence of each partner. For corporations, the notice is mailed to the corporation's business mailing address and the agent of service as recorded with the Secretary of State. Included in the notice is a petition form for the release of the property seized.

## Seizures

To request the return of property seized, a Verified *Petition for Release or Recovery of Property* must be filed in writing within **20 days** from the date of the *Notice of Seizure and Forfeiture*.

**Note:** The Board of Equalization cannot return seized cigarettes or tobacco products unless they were erroneously or illegally seized.



To request the return of property seized, you must file a Verified Petition for Release or Recovery of Property in writing within 20 days from the date of the Notice of Seizure and Forfeiture. It is important that you read and understand all seizure-related correspondence sent to you by the Board of Equalization. If you have any questions, please don't hesitate to get in touch with a BOE representative.

## Seizures



- If cigarettes or tobacco products are seized due to continued sales, gifting, or “unlicensed” sales during a period of suspension or revocation, a BOE-881, *Property Receipt*, is issued.
- The inspector will fully explain the reason for this type of seizure.

**Note:** Products seized under these circumstances are deemed forfeited to the State and may not be petitioned for their return. Products legally forfeited to the State are not returnable.

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If your products are seized due to continued unlicensed sales or sales made while your license is suspended or revoked, you will receive a Property Receipt listing the items seized. Products seized under these circumstances are deemed forfeited to the State. Products legally forfeited to the State are not returnable.

## Public Notice of Seizure

The BOE is required to publicly notice the seizure of cigarette or tobacco products when:

- The seizure is 61 or more cartons of cigarettes,
- The wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes, or
- The combined value of cigarettes and tobacco products seized is equivalent to 61 cartons of cigarettes.

Notice of Seizure Website:

[www.boe.ca.gov/news/seizurecigtoboprod.htm](http://www.boe.ca.gov/news/seizurecigtoboprod.htm)

The BOE is required to provide a public notice of seizure of cigarettes or tobacco products

- when the seizure of cigarettes is more than 60 cartons,
- when the wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes,
- or when the combined value of cigarettes and tobacco products is equal to 61 cartons of cigarettes.

This public notice is posted on the BOE's website.

## What happens to seized product?



- Seized property is stored in a secured area as evidence.
- When the petition process is complete and no further action is necessary, the evidence custodian will destroy forfeited products.
- The time between seizure and destruction of property seized will vary depending on the circumstances of the seizure and/or length of petition process.

When product is seized, it is stored in a secured area as evidence. Once the petition process is complete and no further action is necessary, the product will be destroyed to a point it is no longer marketable. The product is not resold or reintroduced into the marketplace.

## Suspended / Revoked License

- New legislation (AB 2733) affecting CA cigarette and tobacco licensing, effective January 1, 2011:
  - prohibits displaying for sale, gifting or selling during suspension or revocation,
  - requires posting of the Suspension or Revocation Notice during entire period (Notice provided by the BOE),
  - requires posting of the Notice at each entrance and by each register,
  - imposes a penalty for the continued display for sale of cigarettes or tobacco during a period of suspension or revocation - \$1,000 for each offense.

Any licensee issued a Notice of Suspension or Revocation may not sell, gift, or display for sale cigarette or tobacco products for the duration of the suspension or revocation period. In addition, a retailer who is issued a Notice of Suspension or Revocation is required to post a sign, which is provided by the Board, at each public entrance and by each cash register. The sign notifies the public that cigarettes and tobacco products cannot be sold at that location during the period of suspension or revocation.

Should a licensee continue to display cigarettes or tobacco products for sale during the period of suspension or revocation, a fine of \$1,000 will be imposed for each offense.

Six months after a revocation period expires, the owner of the previously licensed location may apply for a new license. At the Board's discretion, a new license may be issued.

## Suspended / Revoked License

Sample of a  
Suspension  
Notice sign.  
The sign must  
remain posted  
during the entire  
period of  
suspension.

The sign is a rectangular document with a black border. At the top center is the State of California Board of Equalization logo, which consists of a stylized wave above the text "STATE OF CALIFORNIA" and "BOARD OF EQUALIZATION". Below the logo, the title "NOTICE OF SUSPENSION" is printed in large, bold, red capital letters. Underneath the title, the text "CIGARETTE and TOBACCO PRODUCTS RETAILER'S LICENSE NUMBER:" is printed in black. This is followed by a line for the license number. Below that, the text "The State Board of Equalization hereby gives notice that the above-stated Cigarette and Tobacco Products Retailer's License issued to:" is printed. This is followed by a line for the license number. Below that, the text "Business Name (DBA):" is printed, followed by a line for the business name. Below that, the text "Is suspended for violation of Business and Professions Code section 22974.7" is printed. Below that, the text "DATE OF SUSPENSION:" is printed, followed by a line for the date. Below that, the text "This notice must be posted at the retail location subject to the suspension for the duration of the suspension." is printed. Below that, the text "Any retailer who fails to post, alters, or removes this notice before the required posting period expires, is subject to a civil penalty of \$1,000 for each offense." is printed. In the bottom right corner, the text "BOE-451 (11-10)" is printed.

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

**NOTICE OF SUSPENSION**

CIGARETTE and TOBACCO PRODUCTS RETAILER'S LICENSE NUMBER:

The State Board of Equalization hereby gives notice that the above-stated  
Cigarette and Tobacco Products Retailer's License issued to:

Business Name (DBA):

Is suspended for violation of Business and Professions Code section 22974.7

DATE OF SUSPENSION:

*This notice must be posted at the retail location subject to the suspension for the duration of the suspension.*

*Any retailer who fails to post, alters, or removes this notice before the required posting period expires,  
is subject to a civil penalty of \$1,000 for each offense.*

BOE-451 (11-10)

This is a sample of a sign for a suspended license. It may be copied as needed. The sign will show the licensee's information and indicate the effective dates of suspension. The sign must remain posted for the entire suspension period. Failing to post, altering, or removing the sign before the posting period expires is subject to a penalty of \$1,000 for each offense. The Revocation sign is similar in appearance.

## Suspended / Revoked License

- Suspension/Revocation signage:
  - ❑ Posted at each public entrance of the retail location and by each register (okay to copy).
  - ❑ Should directly face any person entering the retail location.
  - ❑ Posted no less than 4 feet nor higher than 9 feet from the floor.
  - ❑ Posted for entire period required.
  - ❑ May not be tampered, altered or removed before end of required posting period.
  - ❑ Failure to post as required is subject to a civil penalty of \$1,000 for each offense.

The law has very specific requirements for the posting of the Suspension and Revocation signage. You should carefully follow the posting instructions that are included in the Notice of Suspension or Notice of Revocation that you receive from the Board.

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## Suspended / Revoked License

- Suspensions may be issued for varying violations and range from 10 to 30 days.
- The BOE website lists businesses with suspended Cigarette and Tobacco Product Licenses.

[www.boe.ca.gov/sptaxprog/spexcise.htm](http://www.boe.ca.gov/sptaxprog/spexcise.htm)

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If your license is suspended as a result of a citation or seizure, the period of suspension can range from 10 to 30 days. You can see a list of all businesses with a suspended Cigarette and Tobacco Product License on the Board's website.

Selling cigarettes or tobacco products while a cigarette and tobacco license is suspended will result in the revocation of the license.

- Location specific.
- For a minimum of 6 months.
- Requires revocation sign be posted for 30 days.

If you sell cigarettes or tobacco products during your suspension period, all the cigarettes and tobacco products at that business location may be seized, additional fines or penalties imposed, and your license revoked. At a minimum, your license will be revoked for 6 months. The revocation of your cigarette and tobacco license does not affect your seller's permit or your ability to make other sales.

## Suspended / Revoked License

Revocation of a cigarette and tobacco product license will also occur:

- When a seller's permit becomes revoked.
- For a felony conviction.

**Example:**

- Counterfeiting tax stamps.
- Tax evasion of \$25,000 or more in tax during 12 consecutive months.
- Any permit revoked under any provisions of the Revenue and Taxation Code.

The revocation of a cigarette and tobacco product license will also occur when a seller's permit becomes revoked or when an individual has a felony conviction. Examples of felony convictions can include a person convicted for counterfeiting tax stamps or evasion of \$25,000 or more in tax in 12 consecutive months. A license may also be revoked if any other permit required by the Board of Equalization is revoked under provisions of the Revenue and Taxation Code.

## Citations

If violations of the cigarette and tobacco tax laws are found during an inspection, a citation may be issued by the inspector.



If violations of the cigarette and tobacco tax laws are identified during an inspection, a citation may be issued by the inspector.

## What is a citation?

- A citation is a notice of violation(s) of the law—civil or criminal.
- Citations may be issued for violation of the:
  - Cigarette and Tobacco Licensing Act
  - California Cigarette and Tobacco Tax Laws
  - Sales and Use Tax Laws



A citation is a notice of a violation of the law. Citations may be issued for violations of the Cigarette and Tobacco Licensing Act, the California Cigarette and Tobacco Tax Law, or Sales and Use Tax Laws. Inspectors may issue either a civil citation or a criminal citation.

# Civil Citation Form

BOE-98 REV. 1 (11-05) CIVIL CITATION		STATE OF CALIFORNIA BOARD OF EQUALIZATION	
		<b>No. 04179</b>	
DATE ISSUED / /	TIME <input type="checkbox"/> AM <input type="checkbox"/> PM	DAY OF WEEK S M T W Th F S	BOE-99 ATTACHED <input type="checkbox"/> YES <input type="checkbox"/> NO Serial No.
<b>BUSINESS INFORMATION</b>			
CA SELLER'S PERMIT NO.		CIGARETTE/TOBACCO SELLER'S LICENSE NO.	
PRINT NAME (first, middle, last)		TITLE	
DRIVER LICENSE NO./STATE		RESIDENCE TELEPHONE NO. ( )	
RESIDENTIAL OR BUSINESS ADDRESS (street, city, state, zip code)			
MAILING ADDRESS (if different from above)		CITY	STATE ZIP
BUSINESS NAME (DBA)		BUSINESS TELEPHONE NO. ( )	
<b>VIOLATION INFORMATION</b>			
CODE AND SECTION DESCRIPTION			
PROPERTY SEIZED			
LOCATION OF VIOLATION(S) (street, city, zip)		COUNTY OF OCCURRENCE	
<p>You will receive a notice in the mail regarding this citation from the Board of Equalization that will provide information about any restrictions or fines, if applicable, and your appeal rights. Contact information will be provided in the notice should you have any questions.</p> <p><b>Without admitting guilt, signature acknowledges receipt of this citation.</b></p>			
OWNER SIGNATURE (or authorized representative)		DATE	
CITATION ISSUED BY (agent)		TITLE	
SIGNATURE OF ISSUER		DATE	
<b>Type of Service</b> <input type="checkbox"/> Personal <input type="checkbox"/> Substitute <input type="checkbox"/> Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail			
COMMENTS:			
Original -- Excise Taxes and Fees Division Pink -- Investigations Division Yellow -- Business Owner			

A Civil Citation is handled by the BOE's Special Taxes and Fees Division. A Criminal Citation, also referred to as a Notice to Appear, is a criminal misdemeanor citation and will be forwarded to the local District Attorney's Office. If you receive a criminal citation, the citation will include the date, time, and place where you are required to appear in court. The criminal citation you receive from the inspector may be your only notice for court appearance; the court may or may not send you a separate notice before your scheduled court date.

## How can violations be avoided?

- Make sure your cigarette/tobacco license is displayed.
- Keep 12 months of valid purchase invoices on the premises. Tobacco invoices should show excise taxes paid.
- Buy from licensed distributors/ wholesalers. To verify a distributor or wholesaler license, check the BOE website [www.boe.ca.gov](http://www.boe.ca.gov).
- Sell only cigarettes and roll-your-own tobacco products that are listed on the CA Tobacco Directory.

The most common violation can be avoided by keeping 12 months of valid purchase invoices on the premises. The purchase invoices validate that excise taxes have been paid on the tobacco products and substantiates that your purchases have been made from a licensed person. Keep your active valid license posted and routinely check your cigarette and roll-your-own tobacco inventory against the California Tobacco Directory to avoid some of the other most commonly cited violations.

## What happens when a citation is issued?

- The BOE inspector will fully explain why the citation is issued and the specific section(s) of law violated.
- Civil citations are handled by the BOE Special Taxes & Fees Division.
- Criminal citations are processed through the Courts.
- The inspector will explain the citation process to you, including your right to appeal.



In the event you are issued a citation, the inspector will explain why you were issued the citation and the section of the law that was violated. You will be asked to sign the citation. Please note that your signature on the citation is not an admission of guilt, only an acknowledgment that a copy of the citation was given to you. As previously mentioned, civil citations are handled by the Board's Special Taxes and Fees Division and criminal citations are processed through the courts.

## Penalties and Fines

Depending on the violations cited, penalties may include but are not limited to:

- A Warning Notice.
- Suspension or revocation of license.
- Fines up to \$50,000.
- Imprisonment not to exceed 1 year.
- Both fines and imprisonment.

The level of penalty imposed as a result of a civil or criminal citation will depend on type of violation and frequency of offense.

A citation could result in fines, penalties, and restrictions on your license. Depending on the violations, penalties may include:

- a warning notice,
- a suspension or revocation of your license,
- a fine of up to \$50,000 and/or imprisonment up to 1 year.

The level of the fines, penalties and restrictions on your license will depend on the type of violation and the frequency of the offenses.

## Penalties and Fines

### In the case of criminal citations:

- Additional civil penalties may be assessed by the BOE in addition to penalties imposed by the court.
- These additional penalties may include suspension or revocation of the cigarette and tobacco license and possible fines.
- Civil fines assessed by the BOE will be reduced by any court fines imposed.



Fines and penalties imposed as a result of a criminal citation are assessed by the courts. However, additional civil penalties may also be imposed by the Board of Equalization. These additional civil penalties may include added fines and suspension or revocation of your license. Civil fines assessed by the Board will be offset and reduced by any fines imposed by the court.

## Appeals

- If a citation is issued, a *Warning Notice* or a *Notice of Violation* is mailed by the Special Taxes & Fees Division.
- Your appeal rights are described in the *Notice*.
- A written request to appeal must be received within 10 days from the date of the *Notice*.
- If the request is not received timely, the appeal may not be granted and the violation will remain on record.



If you are issued a citation, you will receive a Warning Notice or a Notice of Violation from the Special Taxes and Fees Division. The notice is sent to provide you with an explanation of your rights to appeal the citation. A form to file an appeal is included in the mailing. The appeal form or any written request to appeal must be received within 10 days from the date of the notice. If the request is not received timely, the appeal may not be granted and the violation will remain on record and penalties imposed.

## Appeals

- There are two levels of appeals.
- The first level is a conference conducted by a Hearing Officer of the Special Taxes & Fees Division.
- A representative of the Investigations Division is included in these conferences.
- All appeal conferences are conducted by telephone.



If you submit a written appeal, you will be contacted by the Special Taxes and Fees Division to schedule an appeals conference. There are two levels of appeal; the first is conducted by a Hearing Officer of the Special Taxes and Fees Division. A representative of the Investigations Division is included at this first level appeal conference in support of the citation issued. All appeal conferences are conducted by telephone.

## Appeals

A *Notice of Decision* is mailed by the Special Taxes & Fees Division within 4 to 6 weeks after the first level appeal conference.



- If there is disagreement with the outcome of the first level decision, the decision may be appealed within 10 days from the date of the *Notice* for a second level appeal conference.
- The second level conference is held by the Appeals Division of the BOE.

After the first level appeal conference is completed, you will receive a Notice of Decision within 4 to 6 weeks from the Special Taxes and Fees Division. If you disagree with the decision, you may appeal for a second level conference. Your request must be received within 10 days from the date of the Notice of Decision.

## Appeals

- The Appeals Division will issue a *Notice of Decision* of the second level appeal conference.
- The decision of this appeal conference is final unless the outcome is a revocation or a fine over \$2,500.
- Revocations and fines over \$2,500 may be appealed for a hearing before the BOE's elected Board.
- The Board Hearing is the final step of the appeal process with the BOE.

The BOE's Appeals Division will conduct the second level appeal conference and will issue its Notice of Decision. The decision from this appeal conference is final unless the outcome of the second level appeal results in a revocation of your license or a fine of over \$2,500. Decisions resulting in a revocation or a fine over \$2,500 may be appealed for a hearing before the Board of Equalization's elected Board. A Board Hearing is the final step of the appeal process with the Board of Equalization.

## Taxpayers' Rights Advocate



If you have been unable to resolve an issue with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate at:

888-324-2798

[www.boe.ca.gov/tra/tra.htm](http://www.boe.ca.gov/tra/tra.htm)

When you have exhausted all other avenues, the Taxpayers' Rights Advocate's office is available to step in and help you. They can also explain more about your rights under the law.

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## For more information...

The following publications are available on the BOE website:

[www.boe.ca.gov](http://www.boe.ca.gov)

- BOE-400-LR    *Application for Retailer's Cigarette and Tobacco Products License*
  - BOE-438        *Can Retailers Purchase Cigarette and Tobacco Products over the Internet or from an Unlicensed Supplier?*
  - Pub 78         *Sales of Cigarettes and Tobacco Products in California*
  - Pub 93,         *Cigarette and Tobacco Product Taxes*
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The Board has several publications related to the sale of cigarette and tobacco products in California and can be viewed on the Board's website. Some of these publications are also available in multiple languages.

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## For more information...cont.

- Pub 152      *Cigarette and Tobacco Product Inspections*
- Pub 161      *Criminal Citations Include a Civil Administration Process*
- Pub 403      *New California Counterfeit-Resistant Cigarette Tax Stamp*
- Pub 407      *Master Settlement Agreement*
- Pub 429      *Flavored Cigarettes Banned in the United States*

**Note:** Some publications are available in multiple languages.

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## E-mail Notifications

- To get the latest information on law changes or updates related to the sales of cigarette and tobacco products, you can register for E-mail notification at the BOE website. As information becomes available, notices will be automatically e-mailed to you.



<http://www.boe.ca.gov/sptaxprog/etfd/index.htm>

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To receive notices with the latest tax information related to the sales of cigarette and tobacco products in California, you can register for e-mail notifications through the Board's website. Once registered, notices will be automatically e-mailed to you with new information such as tobacco tax rate changes, reinstatement fee requirements, or other related information.

## Contact information...

- **For information regarding licenses, civil citations, petitions, or appeals:**

Special Taxes & Fees Division, MIC:88  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0088

Phone: 800-400-7115  
Fax: 916-323-9297

- **For information regarding inspections, seizures, or criminal citations:**

Investigations Division, MIC:42  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0042

Phone: 916-324-0105  
Fax: 916-324-1578

For more information, or if you have questions regarding licensing, civil citation status, petitions for recovery of property seized, or appeals, you may contact the Special Taxes and Fees Division.

For additional information or questions regarding inspections, seizures, or criminal citations, you may contact the Investigations Division.

Thank you for taking the time to review this online information. We hope the presentation has been both useful and informative. If you wish to attend an instructor-led class on this same topic, please check the Board's Free Tax Seminar website for currently scheduled classes.